

IC 6-3.1-28

Chapter 28. Ethanol Production Tax Credit

IC 6-3.1-28-1**"Board"**

Sec. 1. As used in this chapter, "board" refers to the Indiana recycling and energy development board created by IC 4-23-5.5-2.

As added by P.L.224-2003, SEC.200.

IC 6-3.1-28-2**"Ethanol"**

Sec. 2. As used in this chapter, "ethanol" means agriculturally derived ethyl alcohol.

As added by P.L.224-2003, SEC.200.

IC 6-3.1-28-3**"Facility"**

Sec. 3. As used in this chapter, "facility" refers to a facility for the production of ethanol that satisfies all the following:

- (1) The facility is located in Indiana.
- (2) The facility has a capacity to produce at least forty million (40,000,000) gallons of ethanol a year.
- (3) The facility, after December 31, 2003, increased its ethanol production capacity by at least forty million (40,000,000) gallons a year.

As added by P.L.224-2003, SEC.200.

IC 6-3.1-28-4**"Pass through entity"**

Sec. 4. As used in this chapter, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company; or
- (4) a limited liability partnership.

As added by P.L.224-2003, SEC.200.

IC 6-3.1-28-5**"State tax liability"**

Sec. 5. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-2.5 (the state gross retail and use tax);
- (2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (3) IC 6-5.5 (the financial institutions tax); and
- (4) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

As added by P.L.224-2003, SEC.200.

IC 6-3.1-28-6**"Taxpayer"**

Sec. 6. As used in this chapter, "taxpayer" means an individual or entity that has any state tax liability.

As added by P.L.224-2003, SEC.200.

IC 6-3.1-28-7**Ethanol production tax credit**

Sec. 7. Subject to section 11 of this chapter, a taxpayer that produces ethanol at a facility is entitled to a credit against the taxpayer's state tax liability equal to the product of:

- (1) twelve and one-half cents (\$.125); multiplied by
- (2) the number of gallons of ethanol produced at the Indiana facility.

As added by P.L.224-2003, SEC.200.

IC 6-3.1-28-8**Pass through entities**

Sec. 8. If a pass through entity is entitled to a credit under this chapter but does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

As added by P.L.224-2003, SEC.200.

IC 6-3.1-28-9**Carryover of excess tax credits**

Sec. 9. (a) If the amount of the credit determined under this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry over the excess to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit.

As added by P.L.224-2003, SEC.200.

IC 6-3.1-28-10**Claiming tax credits**

Sec. 10. To receive the credit provided by this chapter, a taxpayer must do the following:

- (1) Claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department.
- (2) Provide a copy of the board's certificate finding that the facility is a qualified facility under IC 4-23-5.5-17.
- (3) Submit to the department proof of all information that the

department determines is necessary for the calculation of the credit provided by this chapter.
As added by P.L.224-2003, SEC.200.

IC 6-3.1-28-11

Maximum amount of tax credits awarded

Sec. 11. (a) The total amount of credits allowed a taxpayer under this chapter may not exceed a total of five million dollars (\$5,000,000) for all taxable years.

(b) The total amount of credits allowed under this chapter may not exceed ten million dollars (\$10,000,000) for all taxpayers and all taxable years.

As added by P.L.224-2003, SEC.200.